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DEC 27 2007

OFFICE OF PETITIONS

In re Application of :
Donald A. Schon et al :
Application No. 10/670,861 : DECISION ON PETITION
Filed: September 24, 2003 :
Attorney Docket No. MED-0005D1 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed July 26, 2006, which set a shortened statutory period for reply of three (3) months. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on November 28, 2006 (November 26, 2006, was a Sunday). A Notice of Abandonment was mailed on April 6, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, \$790 filing fee, and submission as required by 37 CFR 1.114, (2) the petition fee of \$1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of July 26, 2006 is accepted as being unintentionally delayed.


It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has

not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218 or to the Office of Petitions Help Desk at (571) 272-3282 after January 3, 2008.

This application is being referred to Technology Center AU 3761 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114 received June 26, 2007.


Frances Hicks
Petitions Examiner
Office of Petitions

cc:

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